

**Village of Brewster  
Planning Board Meeting Minutes  
January 19, 2021**

**BOARD MEMBERS:**

Rick Lowell, Chairman  
Janet Ward, Vice Chairperson  
David Kulo  
Marti Foster  
Katy New

**PROFESSIONAL ADVISORS:**

Greg Folchetti, Attorney - Costello & Folchetti  
Todd Atkinson, PE – J.R. Folchetti & Associates

Chairman Lowell led the Board in the Pledge of Allegiance, whereupon the proceedings were called to order at 7:30pm.

**REGULAR MEETING:**

Boardmember Ward made a motion to open the regular meeting. This was seconded by Boardmember Foster and passed unanimously.

**861 ROUTE 22:**

Chairman Lowell said Mr. Folchetti, can you please let the Board know what we did wrong last time. Mr. Folchetti said the Board did not do anything wrong. He said what happened is Mr. Cinque's client came in with an application, which was a petition for an amendment to the Zoning Code that would permit a conditional mixed use of commercial and residential in the B2 Zone subject to certain conditions. There are two steps to it, he said. First, he said, as the Code currently exists that is not a permitted conditional use and what got referred to this Board was the Special Exception Use Permit application, which you have to make a recommendation on and if you do not within 30 days it is deemed approved. He said I believe that the Village Board enacted it without it being referred to this Board, so the matter has been referred back to this Board for its review and report on the proposed amendment to the Zoning Code. The Village Board is free to act in whatever manner they want after they receive this Board's recommendation. Boardmember Foster said when does the 30 days start. Mr. Folchetti said they probably referred this to you last week.

Chairman Lowell said we are going back in time to possibly approve the concept but not this particular application. Boardmember Ward said the explanation is that the prior meeting was when the Planning Board recommended it to the Village Board... Chairman Lowell said we passed a positive recommendation on this project. However, he said, we were ahead of the game because the first step is to actually approve the permission of residential use in the B2 District. Boardmember Foster said technically I believe we said it was a conditional approval because we suggested the parking stipulation.

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Chairman Lowell said is there anything that needs to be summarized for everyone one more time so that we are all on the same page and can make a decision. Mr. Folchetti said that is up to the board members; it is not a long-proposed amendment to the Code, but the first thing is that there is a conditional use that it is mixed with commercial first floor and residential on the upper floors. He said there are criteria to that particular exception: no higher than a 40 ft. building, the minimum lot area is 20,000, it can have 0 front and side yard setbacks, 12 units per structure, limited to within the B2 District on Route 22 between Main Street and Allview, and everything else in the B2 applies. He said right now it is not permitted as a conditional use in that district, so if the Board is inclined to make a recommendation on it one way or the other, they may by motion.

Mr. Folchetti said you can say that you want to make a motion to approve the provisions of proposed Local Law #1 of 2021 amending Chapter 263 at this time.

Chairman Lowell said I will make the motion as per Mr. Folchetti's statement, seconded by Boardmember Kulo and passed all in favor to discuss. Chairman Lowell said any discussion. Boardmember Ward said I have some concerns or questions: why is there no setback, front and side yard. She said this particular building is not right up to the street and the front yard is Route 6. Mr. Folchetti said the rear and side are 0. Boardmember Ward said the law says front yard and side yard. Mr. Folchetti said then that's accurate and I am not advocating one way or another, but am saying in densely developed areas 0 lot line setbacks are fairly common. Boardmember Foster said I have a referential point: in subsection 9 in the existing Code is essentially similar to this; subsection 9 was for a different place somewhere between Michael Neuner Drive and Wells Street, but that also has a minimum lot area of 20,000, minimum front and side yard setback of 0 ft. so that portion of the proposal is similar to existing Code. The only different is that parking, the existing Code Subsection 9 sub-subsection F says there shall be a minimum of one parking space per dwelling unit, he said, and that verbiage is not here and I think it should be added. Mr. Folchetti said one per unit or two per unit. Boardmember Foster said the current law says one. He said subsection 9 says "the Special Exception Use Permit is limited to parcels located within the PB District of North Main Street between Michael Neuner and Wells," so that is similar to this new proposal except there is a little more verbiage.

Chairman Lowell said we are not talking about a Special Exception Use Permit now; we are talking about having residential in the B2 Zone. Mr. Folchetti said it is mixed in the B2; commercial on the ground floor and residential on the upper floors as a Conditional Use. Chairman Lowell said the permission has to be received on each individual project and not available blanket through the zone. Mr. Folchetti said this Board will make its recommendation and the Village Board will either consider it and incorporate it or consider it and dismiss it. He said if this Board says we are good with this legislation but we want this added then the Village Board can either incorporate it or not. This Board's job is to make some sort of report and recommendation on what is being proposed to you, he said, and it is perfectly reasonable to put the parking in there and whether the Board of Trustees wants to do it or not is going to be up to them ultimately.

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Boardmember Ward said I still hold that I do not agree with this use for that space and I am thinking about the building itself. Mr. Folchetti said we are looking just at a legislative change here so if you are looking at the building, you should be looking at all of them in the B2 Zone because this potentially applies to every building in the B2 Zone. Boardmember Ward said right and the B2 Zone is from Route 22 to Allview, but not all of those buildings are 0 setback so is the 0 setback referring to the parking area or is having a 0 setback saying you can literally build at the curb. Boardmember Lowell said that would have to be part of the approval. Boardmember Ward said if we approve this now with 0 setback that means that no one has to ask permission to build to the sidewalk. Mr. Folchetti said they would not have to ask permission from the Zoning Board of Appeals because they would not need a variance for the 0 setback, but they still need Planning Board permission or Board of Trustee permission for the SEUP in Site Plan. He said it becomes a non-issue for zoning if you wanted to 0 front and side yard setback. Boardmember Foster said it says a minimum setback and that does not mean that it has to be right up to the street; the Board could look at it and say it should be something else for a particular application. Mr. Folchetti said this just takes the Zoning Board of Appeals out of the equation for those two issues. Boardmember Kulo said if Norm's is a 0 setback as is, does that have any function in this setback issue. Mr. Cinque said I believe the other provisions of the ordinance proposed would eliminate Norm's because I do not think they meet the area requirements or parking requirements as the requirements exist.

Boardmember Foster said I am looking at the latest letter that I have dated November 9 and it does say the minimum front yard setback shall be 25 ft. and side yard still at 0 ft. Mr. Folchetti said whatever the Board is going to notice, they will notice. If your recommendation is that it should be some number from the front, he said, you just need to get the Village Board what your thoughts are on it with respect to that issue. Boardmember Ward said I want to know why we have a 0 setback; is it because of Norm's. Boardmember Kulo said we do not have a 0 setback; that letter is correct. Chairman Lowell said each application in this district will have to be approved by the Planning Board and the Village Board and we can make any recommendations we deem necessary. Boardmember New said we are not making a recommendation tonight that will dictate every decision similar to this in the future. Chairman Lowell said we will make recommendations and when it comes to the Planning process.

Mr. Folchetti said I am not aware of anything other than the 0 front and side yard set. Mr. Cinque said I submitted no less than three versions and that was after extensive discussions with Anthony Mole and we came up with the specifications that were ultimately put before the Board in December. Mr. Folchetti said that law is null because it was never referred here and I do not have the version you are speaking of, only the version that was initially sent which had the 0s, but this is a simple fix. He said if this Board wants a minimum front yard setback then that is a part of your recommendation. Boardmember Kulo said I have no problem with a 25 ft. front yard setback.

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Boardmember Foster said I do not either and I do not have a problem with a 0 ft. side yard setback. Boardmember Ward said I think we need to have some sort of setback.

The setbacks of the various buildings in this area were discussed by the Board. Boardmember Ward said what is to stop someone from tearing down what they have and re-building with a 0 setback. Chairman Lowell said the applications will be dealt with one by one and we are not giving permission for anything; we are giving a recommendation. He said the Village Board will take hopefully what we say into account, but we are not making a law for all time. Mr. Folchetti said the recommendation that it be passed as tendered with the exception that there is a recommendation for one parking space for each dwelling and a minimum 25 ft. front yard setback; is that the recommendation. Chairman Lowell said what is a dwelling unit. Mr. Folchetti said dwelling unit: a single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation. That is your definition of dwelling unit, he said.

Mr. Folchetti said OK, does the Board want to withdraw the previous motion that Chairman Lowell made. Chairman Lowell said yes, it is withdrawn. Mr. Folchetti said does the Board want to make a motion with the recommendation of the approval of Local Law #1 of 2021 amending Chapter 263 of the Village Code with the condition that at least one parking space per dwelling unit be provided and that the front yard setback be a minimum of 25 ft. He said is that what the Board's consensus is or at least the majority. The Board said yes. Mr. Folchetti said you can adopt that motion if you want, as counsel stated.

Chairman Lowell made the motion as per Counsel's statement, seconded by Boardmember Kulo, and passed 4 to 1.

Mr. Folchetti said I am going to write it up as voted, send it to the Chairman and the clerk, and make sure that the law that is being published is reflective of the 25 ft. setback.

The minutes of the November 17, 2020 meeting were discussed. The motion to approve the September 15, 2020 minutes as amended was introduced by Chairman Lowell, seconded by Boardmember Foster and passed all in favor.

**NEW BUSINESS:**

The Board discussed the appearance of the Domino's Pizza building.

The Board discussed the Planning Federation training and how to inform the Village Clerk that they were completed. Chairman Lowell said to submit any trainings completed to the Village Clerk.

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Boardmember Ward made a Motion to adjourn the meeting, seconded by Chairman Lowell, and passed all in favor.